
A BILL FOR AN ACT

RELATING TO CHILD VISITATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 571-46.3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§571-46.3 Grandparents' visitation rights; petition;
4 notice; order. (a) A grandparent or the grandparents of a
5 minor child who has attained years of age may file a petition
6 with the court for an order of reasonable visitation rights.
7 The court may award reasonable visitation rights; provided that
8 the following criteria are met:

9 (1) This [~~State~~] state is the home state of the child at
10 the time of the commencement of the proceeding; and

11 (2) [~~Reasonable~~] There is clear and convincing evidence
12 that denial of reasonable visitation rights [are in
13 the best interests of] would cause significant harm to
14 the child.

15 (b) In any proceeding on a petition filed under this
16 section, there shall be a rebuttable presumption that the
17 parent's decision regarding visitation is in the best interests
18 of the child. The presumption may be rebutted by clear and



1 convincing evidence that denial of reasonable visitation rights
2 would cause significant harm to the child. In ruling on the
3 petition, the court may consider factors including the
4 following:

5 (1) The nature and extent of any pre-existing or prior
6 relationship between the child and the grandparent;

7 (2) Whether the grandparent has previously been granted
8 visitation by the child's parent or custodian and if
9 so, the nature and extent of the visitation;

10 (3) Whether the grandparent has previously been awarded
11 visitation rights or custody of the child by a court;

12 (4) Whether the child has resided with the grandparent,
13 either alone or with a parent or custodian, and if so,
14 how recently and for how long;

15 (5) Whether the grandparent was a primary caregiver for
16 the child and if so, for how long;

17 (6) Whether the grandparent has provided financial support
18 to the child, including for food, clothing, education,
19 and medical, dental, or mental health care;

20 (7) The amount of visitation time requested and the
21 potential for adverse impact on the child's customary
22 activities;



1 (8) The physical and mental health of the child and the
2 grandparent;

3 (9) The good faith of the grandparent and the parent or
4 custodian denying visitation;

5 (10) If the parent or custodian has denied the grandparent
6 visitation or substantially restricted visitation
7 previously granted, whether the reason given, if any,
8 bears on the grandparent's ability to safely care for
9 the child during visitation or relates to an issue
10 between the grandparent and parent not directly
11 related to safe care of the child during visitation;

12 (11) The child's preference, if the child is of sufficient
13 age to state a preference;

14 (12) Any relevant factor in the safe family home guidelines
15 under section 587-25; and

16 (13) Any other factor that establishes that the loss of
17 relationship between the grandparent and the child is
18 likely to harm the child's mental, physical, or
19 emotional health.

20 (c) No hearing for an order of reasonable visitation
21 rights under this section shall be had unless each of the living
22 parents and the child's custodians shall have had due notice,



1 actual or constructive, of the allegations of the petition and
2 of the time and place of the hearing thereof.

3 (d) An order made pursuant to this section shall be
4 enforceable by the court, and the court may issue other orders
5 to carry out these enforcement powers if in the best interests
6 of the child."

7 SECTION 2. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 3. This Act shall take effect on January 1, 2050.



Report Title:

Child Custody; Grandparent Visitation

Description:

Permits family court to award reasonable visitation to the grandparents of a child of unspecified age if denial of visitation would cause significant harm to the child.

Establishes presumption that visitation decisions by parents are in the best interests of the child. Identifies factors court may consider in awarding visitation. (SB2368 HD1)

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